

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: GENERIC PHARMACEUTICALS  
PRICING ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

THE KROGER CO., et al.,

Plaintiffs,

v.

ACTAVIS HOLDCO U.S., INC., et al.,

Defendants.

MDL 2724  
16-MD-2724  
HON. CYNTHIA M. Rufe

18-CV-284

**DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY  
IN SUPPORT OF THE OPPOSITION TO THE KROGER DIRECT-ACTION  
PLAINTIFFS' MOTION FOR LEAVE TO AMEND**

Defendants respectfully submit the attached opinion recently issued by the Court of Appeals for the Sixth Circuit, *In re National Prescription Opiate Litigation*, No. 20-3075 (6th Cir. Apr. 15, 2020), in which the Court of Appeals discussed and applied the standard for a motion for leave to amend after expiration of the district court's deadline, in the context of another large and complex MDL. *See* Slip Op., attached hereto as Exhibit A, at 5-8. The Sixth Circuit ultimately found that the "district court's decision to grant leave to amend was plainly incorrect as a matter of law." *Id.* at 8-9. The Sixth Circuit's opinion is relevant to the arguments made by Defendants in their Opposition at pages 7 to 11 (ECF No. 206), and Sur-Reply at pages 6 to 8 (ECF No. 217).

Dated: April 21, 2020

Respectfully submitted,

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